

**STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION  
ORDER BY CONSENT  
ISSUED TO  
PERDUE FARMS INCORPORATED**

**Registration number 40483**

**SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §10.1-1307.D, §10.1-1309, §10.1-1316.C, and §10.1-1184 between the State Air Pollution Control Board and Perdue Farms Incorporated., for the purpose of resolving certain violations of environmental law and regulations.

**SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1301 and 10.1-1184.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “Order” means this document, also known as a Consent Order.

6. "Perdue" means Perdue Farms Incorporated, certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
7. "TRO" means the Tidewater Regional Office of DEQ, located in Virginia Beach, Virginia.
8. "Regulations" means Virginia Regulations for the Control and Abatement of Air Pollution (9 VAC 5-10-10 et seq.).
9. "Affected facility" means, with reference to a stationary source, any part, equipment, facility, installation, apparatus, process or operation to which an emission standard is applicable or any other facility so designated.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. Perdue owns poultry processing and rendering operations with associated wastewater treatment facilities and lagoons at 22520 Lankford Highway, Accomac, VA 23301.
2. 9 VAC 5 40-140, Standard for odor, states that "No owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any emissions which cause an odor objectionable to individuals of ordinary sensibility."
3. On May 23, 2001, DEQ received a complaint about odor emissions emanating from the Perdue rendering facility.
4. On June 20, 2001, DEQ staff performed an inspection of the Perdue facility in Accomac. During the inspection, several items at the rendering facility were identified for improvement of odor control. These items were listed in a Request for Corrective Action (RCA) issued that day to the facility. The RCA requested that the facility provide cleaning schedules for concrete pads, drain trenches, odor system scrubbers and ductwork, a repair schedule for a missing (odor control) door, and the implementation of a records retention policy for the odor control system.
5. On July 16, 2001, Perdue responded to the RCA issued on June 20, 2001. The response listed the requested schedules of cleaning that had been implemented, states the door repair would be accomplished as soon as possible, and stated that a records retention policy had been implemented.
6. On October 7, 2001, DEQ received a complaint about odor from the Perdue (rendering) facility. A site visit on October 16, 2001 was made to the facility to investigate the complaint.

7. On October 30 and November 6, 2001, DEQ received complaints about odor from the Perdue (rendering) facility. These two complaints were investigated during a site visit on November 16, 2001. Two doors into the rendering plant were found to be missing, and another door was damaged such that substantial gaps occurred between the door and frame, impacting odor control.
8. On November 19, 2001, DEQ issued a Warning Letter to Perdue requesting a maintenance plan to prevent occurrence of conditions, which have a negative impact on odor control.
9. On November 20, 2001, DEQ received a complaint about odor from the Perdue facility. DEQ staff in the area of Perdue at that time considered the odor to be strong and objectionable.
10. A Notice of Violation (NOV) was issued on November 26, 2001, which superseded the Warning Letter issued on November 19, 2001. The NOV was issued for violation of 9 VAC 5-40-140, Standard for Odor.
11. The TRO office of DEQ has received additional valid complaints, concerning odor from the Perdue rendering and/or wastewater treatment lagoon.

#### **SECTION D: Agreement and Order**

1. Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1316.C, orders Perdue, and Perdue voluntarily agrees to pay a civil charge of \$25,185.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia," and indicate Perdue's Federal Identification Number, and shall be sent to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 10150  
Richmond, Virginia 23240
2. Perdue agrees to the following:
  - a. Engineering Evaluation of Facility-Within 60 days of the effective date of this Consent Order, Perdue will have an outside engineering evaluation initiated of the current facility odor collection and control system. The engineering evaluation is to include: evaluation of scrubber effectiveness and exhaust gases, scrubber chemical and mechanical balance, airflow rates of the odor collection ductwork, anaerobic lagoon cap, and any other potential sources of odor release to the atmosphere. Duration of the engineering evaluation is expected to require 6 months.

- b. Within 30 days of the completion of the engineering evaluation, results and recommendations from the engineering evaluation are to be submitted to the DEQ for review. DEQ will evaluate the recommendations of the engineering evaluation and will come to agreement with Perdue on the implementation scope, procedures and timing of the recommendations from the engineering evaluation.
- c. Within 30 days of the submission of the results and recommendations from the engineering evaluation to DEQ, Perdue will submit an application for a State Operating Permit that will include: (1) Conditions for the implementation of the results of the engineering evaluation as agreed to with DEQ; and (2) Conditions listed in Appendix A of this Consent Order.
- d. Within 30 days of the effective date of this Consent Order, Perdue will implement the conditions listed in Appendix A. These conditions are for the control of odor from the Perdue Accomac facility, which includes poultry processing, rendering, and wastewater treatment equipment and operations. These conditions will remain in effect until the State Operating Permit is issued.

#### **SECTION E: Administrative Provisions**

- 1. The Board may modify, rewrite, or amend the Order with the consent of Perdue, for good cause shown by Perdue, or on its own motion after notice and opportunity to be heard.
- 2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Perdue by DEQ on November 26, 2001. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
- 3. For purposes of this Order and subsequent actions with respect to this Order, Perdue admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
- 4. Perdue consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
- 5. Perdue declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding

authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.

6. Failure by Perdue to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Perdue shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Perdue shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Perdue shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Perdue. Notwithstanding the foregoing, Perdue agrees to be bound by any compliance date, which precedes the effective date of this Order.

11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Perdue. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Perdue from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, Perdue voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Francis L. Daniel, Regional Director  
For Robert G. Burnley, Director  
Department of Environmental Quality

Perdue voluntarily agrees to the issuance of this Order.

By: \_\_\_\_\_

Date: \_\_\_\_\_

State of Maryland  
County of Wicomico

The foregoing document was signed and acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2003, by Charlie Carpenter, who is Vice President, Prepack Boiler  
(name) (title)

Operations of Perdue Farms Incorporated on behalf of the Corporation.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.

Perdue voluntarily agrees to the issuance of this Order.

By: \_\_\_\_\_

Date: \_\_\_\_\_

State of Maryland

County of Wicomico

The foregoing document was signed and acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2003, by Mary C. Klein, who is Director, Protein Conversion  
(name) (title)

of Perdue Farms Incorporated on behalf of the Corporation.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.

Perdue voluntarily agrees to the issuance of this Order.

By: \_\_\_\_\_

Date: \_\_\_\_\_

State of Maryland

County of Wicomico

The foregoing document was signed and acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2003, by N. Wayne Hudson, who is Operations Manager,  
(name) (title)

Protein Conversion of Perdue Farms Incorporated on behalf of the Corporation.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.

## APPENDIX A

Perdue shall implement the following conditions for the control of odor from the Perdue Accomac facility, which includes poultry processing, rendering, and wastewater treatment equipment and operations. These conditions are to be implemented within 30 days of the effective date of this Consent Order.

1. Emission Controls-Odor emissions from the rendering plant operations shall be controlled by proper operation and maintenance of the rendering plant and odor control scrubber systems. The odor control scrubber systems shall be operated at all times of rendering plant operation. The rendering plant shall be provided with adequate access for inspection.
2. Emission Controls-Odor emissions from the rendering plant process areas, including raw material receiving hoppers, shall be controlled by odor control equipment. Specifically:
  - a. Odor from the air in various rendering plant rooms shall either be controlled directly by the packed tower scrubbers, using ClO<sub>2</sub> as an oxidant, or as directed by building negative air pressure through the packed tower scrubbers.
  - b. Odor from the cookers and all existing processing equipment shall be sequentially controlled by the contact condenser and packed tower, using ClO<sub>2</sub> as an oxidant.
3. Operating Limitation-In the event that it becomes necessary for the effluent wastewater from the anaerobic lagoon to be subjected to atmospheric exposure, the facility shall implement procedures for the regular addition of lime, or, the implementation of other appropriate odor reduction measures, so as to minimize the generation of offensive odors.
4. Operating Limitation-The facility shall undertake measures to reduce the offensive odors that are generated by the anaerobic lagoon operation. This shall include the development, implementation, and recording of Best Management Practices.
5. Monitoring Devices-The packed towers shall each be equipped with devices to continuously measure the scrubber liquid flow rate through each unit. The flow and pH of the scrubbing liquids in the contact condenser and packed tower scrubbers shall be checked and recorded during each shift, during the operation of the rendering plant. Each monitoring device shall be installed, maintained, calibrated and operated in accordance with approved procedures which shall include, as a minimum, the manufacturer's written requirements or recommendations. Each monitoring device shall be provided with adequate access for inspection and shall be in operation when the rendering plant is operating.



6. Monitoring Devices-The odor collection ductwork shall be equipped with differential pressure devices to continuously measure the differential pressure through the odor collection ductwork. Each monitoring device shall be installed, maintained, calibrated and operated in accordance with approved procedures which shall include, as a minimum, the manufacturer's written requirements or recommendations. Each monitoring device shall be provided with adequate access for inspection and shall be in operation when the rendering plant is operating.
7. Monitoring Devices-The odor control system shall be equipped with a chart recorder to record the flow rate of ClO<sub>2</sub> added to the system. Each monitoring device shall be installed, maintained, calibrated and operated in accordance with approved procedures which shall include, as a minimum, the manufacturer's written requirements or recommendations. Each monitoring device shall be provided with adequate access for inspection and shall be in operation when the rendering plant is operating.
8. Monitoring Device Observation-The monitoring devices used to continuously measure flow rates and pH levels shall be observed by the facility with a frequency of at least once per shift to ensure good performance of the scrubbers and ductwork. The facility shall keep a log of the observations from the monitoring devices.
9. Operating Limitation-All exterior doors for the rendering process areas shall be equipped with automatic closure devices (except for overhead roll-up doors). The facility shall regularly monitor doors that are opened for receiving product or for makeup air to ensure there is negative pressure so that no odors escape. Monitoring for negative pressure shall be conducted on a monthly basis, during normal operating conditions. Ensure external doors and door frames are in good condition without damage or holes.
10. Operating Limitation-All material received at the rendering plant shall be processed or hauled away before it has decomposed to the extent that it causes objectionable odors.
11. Operating Limitation-Each loaded truck shall be covered with a tarp until it is unloaded. The staging and receiving areas must be paved and coated with nonporous material, which is easy to clean. The staging and receiving areas must be cleaned within four hours of any spillage. Wastewater from the clean-up shall be directed to the sewer system.
12. Operating Limitation-Each truck shall be washed promptly after being emptied. Wastewater from the clean-up shall be directed to the sewer system.

13. Operating Limitation-Truck transit lanes to and from the rendering plant shall be paved with a non-porous material to avoid malodorous contamination and shall be kept in a clean condition.
14. Operating Limitation-There shall be minimal ponded rendering process runoff water outside of the rendering plant.
15. Operating Limitation-All spilled finished product shall be cleaned up promptly.
16. Operating Limitation-A schedule will be developed and implemented for routine cleaning of the odor control system scrubbers and ductwork.
17. Operating Limitation-Perform physical modification of piping at the old rendering plant lift station to direct hot condensate wastewater from the evaporative cooking process to enclosed piping. Preventative Maintenance-The facility shall prepare a plan to prevent, detect and correct malfunctions that cause excessive odor emissions. The plan shall include all of the following:
  - a. A complete preventative maintenance program, including identification of the supervisory personnel responsible for overseeing the inspection, maintenance and repair of the processing equipment and pollution control equipment. The plan shall also include a description of the items or conditions that shall be inspected, the frequencies of inspections, maintenance and repairs, and an identification of the major replacement parts that shall be retained in inventory for quick replacement; and,
  - b. A description of the source and the air-cleaning device operating parameters that shall be monitored to detect a malfunction, the normal operating range for these parameters, and a narrative of the standard operating procedures for this device.
19. Emergency Odor Response Plan-The facility shall develop an Emergency Odor Response Plan to describe activities necessary to: prevent mitigate odor incidents as much as possible and promptly control and eliminate the excess odor emissions during unavoidable incidents. These activities shall include, but are not limited to, available excess capacity of the odor control scrubber system and oxidants, diversion of on-site material to other facilities and/or refusal of off-site material. The plan shall also establish criteria for when to terminate processing and how to handle unprocessed material inside the rendering area.
20. Operating and Training Procedures-Rendering plant emissions shall be controlled by proper operation and maintenance of air pollution control equipment. Rendering plant operators shall be trained in the proper operation of all such equipment. Training shall consist of a review and familiarization of the manufacturer's operating instructions, at minimum. The facility shall maintain records of the required training including a statement of time, place and nature of

training provided. The facility shall have available good written operating procedures and a maintenance schedule for air pollution control equipment. These procedures shall be based on the manufacturer's recommendations, at minimum. All records required by this condition shall be kept on site and made available for inspection by DEQ.

21. Excessive Odor Requirements-If DEQ investigates an odor complaint and determines that excessive odor does exist, the DEQ may require that the raw materials no longer be fed to the process causing the odor. The remaining raw materials for this process and any incoming raw materials shall be diverted to another plant site until the problem is corrected.